

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WAYNE BERRY,

Plaintiff,

vs.

DEUTSCHE BANK TRUST COMPANY
AMERICAS (FKA BANKERS TRUST
COMPANY) and JP MORGAN CHASE
BANK in their separate capacities and as
agents for the pre- and post-petition Lender
Defendants of Fleming Companies, Inc.;
GENERAL ELECTRIC CAPITAL
CORPORATION; C&S WHOLESALE
GROCERS, INC.; THE POST-
CONFIRMATION TRUST OF FLEMING
COMPANIES, INC.; ROBERT KORS;
CORE-MARK HOLDINGS INC. AND DOES
1 TO 200,

Defendants.

Case No. 01:07 CV 7634 (WHP)

ECF Case

AFFIDAVIT OF ERIN N. BRADY IN SUPPORT OF DEFENDANTS' REPLY TO
MOTION FOR SANCTIONS UNDER FEDERAL RULE OF CIVIL PROCEDURE 11

KIRKLAND & ELLIS LLP
Erin N. Brady (admitted *pro hac vice*)
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Los Angeles, California 90017
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Email: ebrady@kirkland.com

Counsel for Defendants Post Confirmation Trust
and Robert Kors

AFFIDAVIT OF ERIN N. BRADY

I, ERIN N. BRADY, testify as follows:

1. I am a partner at the law firm Kirkland & Ellis LLP. My firm has been retained to represent Defendants Post Confirmation Trust ("PCT") and Robert Kors in this lawsuit. I have personal knowledge of the facts set forth herein and, if called to testify, could and would testify competently thereto.

2. Attached as Exhibit P is a true and correct copy of an April 23, 2008 letter sent by Michael E. Baumann, counsel for Defendants PCT and Robert Kors, to Judge William H. Pauley, which encloses a March 27, 2008 order from the State of Hawaii First Judicial Circuit Court in the Julianne N. Berry v. Wayne Foster Berry divorce proceeding.

3. Attached as Exhibit Q is a true and correct copy of a March 10, 2008 letter sent by Rebeka Takayama, a State of Hawaii First Judicial Circuit Domestic Law Clerk, to Wayne Berry regarding a hearing set for March 28, 2008 in his divorce proceeding.

4. Attached as Exhibit R is a true and correct copy of Berry's Non-Hearing Motion To Dismiss Expired Complaint For Divorce, which he filed in the State of Hawaii First Judicial Circuit on or about September 12, 2007. In this motion, Berry asserts that Mr. Kors and others are indispensable parties in his divorce case.

5. In or about November 2007, Mr. Hogan asked the PCT to send C&S a letter asking it to return to Berry any Berry software it had. He repeated this request on several occasions.

So sworn under penalty of perjury under the Laws of the United States of America in Los Angeles, California, May 5, 2008.


Erin N. Brady

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- ☐ See Attached Document (Notary to cross out lines 1-6 below)
- ☐ See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

Signature of Document Signer No. 1 _____

Signature of Document Signer No. 2 (if any) _____

State of California

County of LOS ANGELES

Subscribed and sworn to (or affirmed) before me on this

5th day of MAY, 2008, by

Date Month Year

(1) ERIN N. BRADY

Name of Signer

proved to me on the basis of satisfactory evidence
to be the person who appeared before me (.) (.)

(and

(2) _____

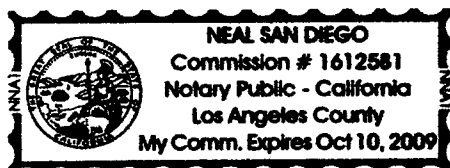
Name of Signer

proved to me on the basis of satisfactory evidence
to be the person who appeared before me.)

Signature

Neal San Diego

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

*Though the information below is not required by law, it may prove
valuable to persons relying on the document and could prevent
fraudulent removal and reattachment of this form to another document.*

Further Description of Any Attached Document

Title or Type of Document:

PCT + KORS Reply / AFFIDANT

Document Date:

MAY 05, 2008

Number of Pages:

2

Signer(s) Other Than Named Above: _____

**RIGHT THUMBPRINT
OF SIGNER #1**

Top of thumb here

**RIGHT THUMBPRINT
OF SIGNER #2**

Top of thumb here